

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 366

SPONSOR: Banking and Insurance Committee and Senator Fasano

SUBJECT: Homeowner's Insurance/Cancellation

DATE: January 22, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Deffenbaugh</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 366 requires insurers to give the named insured at least 180 days written notice prior to the effective date of nonrenewal or cancellation of a residential property insurance policy. The current law requires 90 days notice. The bill would maintain other provisions of current law that require only 10 days notice for cancellation due to nonpayment of premium and only 20 days notice during the first 90 days that a policy is in force.

The bill applies to all residential property insurance policies, which includes homeowner's, mobile homeowner's, farmowner's, condominium association, condominium unit owner's, apartment building, and other policies covering a residential structure or its contents.

This bill amends section 627.4133 of the Florida Statutes.

II. Present Situation:

Currently, insurers must give the named insured at least 90 days written notice prior to the effective date of nonrenewal or cancellation of a residential property insurance policy [s. 627.4133(2), F.S.]. This applies to all personal and commercial residential policies, including homeowner's, mobile homeowner's, farmowner's, condominium association, condominium unit owner's, apartment building, and other policies covering a residential structure or its contents. However, only 10 days notice of cancellation is required for nonpayment of premium. Also, only 20 days notice of cancellation is required if the cancellation occurs during the first 90 days that the policy is in force, except where there has been a material misstatement or misrepresentation or failure to comply with the underwriting requirements established by the insurer.

There is a distinction between a *nonrenewal* of a policy, which occurs at the end of a policy period, and a *cancellation* of a policy, which occurs during the policy period. The current Florida law is much more restrictive on an insurer's right to cancel a policy, as compared to nonrenewal of a policy. The law provides that after a residential property insurance policy has been in effect for 90 days, the insurer may not cancel the policy except when there has been a material misstatement, nonpayment of premium, failure to comply with underwriting requirements established by the insurer, or a substantial change in the risk covered by the policy, or when the cancellation is for all insureds under such policies for a given class of insureds.

Florida law does not significantly limit the reasons for which an insurer may decide to non-renew a residential property insurance policy, with the notable exception of the moratorium enacted after Hurricane Andrew that initially prohibited, then limited, nonrenewals for the purpose of avoiding hurricane exposure, which was repealed in 2001. The law continues to provide that claims that are the result of an act of God may not be used as a reason for nonrenewal or cancellation of a property insurance policy, unless the insurer can demonstrate, by claims frequency or otherwise, that the insured failed to take action reasonably necessary as requested by the insurer to prevent recurrence of damage to the property [s. 627.4133(3), F.S.]. Also, an insurer may not refuse to insure or continue to insure any individual or risk solely because of race, color, creed, marital status, sex, or national origin, the insured's failure to place collateral business with any insurer, the insured's failure to purchase non-insurance services, or for certain other reasons, as specified in s. 626.9541(1)(x), F.S. Insurers must file their underwriting rules for homeowner's insurance with the Office of Insurance Regulation [s. 627.0651(13), F.S.].

III. Effect of Proposed Changes:

The bill requires insurers to give the named insured at least 180 days written notice prior to the effective date of nonrenewal or cancellation of a residential property insurance policy. The current law requires 90 days notice. The bill would maintain other provisions of current law that require only 10 days notice for cancellation due to nonpayment of premium and only 20 days notice for cancellation during the first 90 days that a policy is in force. The bill would apply to policies issued or renewed on or after January 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Homeowners and other residential property insurance policyholders will be provided at least 180 days, rather than 90 days, within which to find replacement coverage, if the insurer decides to non-renew or cancel the policy, with certain exceptions.

Insurers may be required to continue coverage for a longer period of time after a decision has been made to cancel or non-renew a residential insurance policy. The increased notice may expose insurers to greater risk of loss, which may result in insurers being more restrictive or selective in their initial underwriting of a policy.

C. Government Sector Impact:

None

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.